

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,
individually and on behalf of NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-RJK

NORFOLK SOUTHERN RAILWAY
COMPANY, *et al.*,

Defendants.

_____ /

PROPOSED STIPULATED ORDER ON TRIAL SCHEDULE

Plaintiff CSX Transportation, Inc. (“CSX”) and Defendants Norfolk Southern Railway Company (“NS”) and Norfolk and Portsmouth Beltline Railway Company (“NPBL”), by counsel, stipulate and agree, to accommodate the availability of certain witnesses and to narrow the scope of deposition designations to be addressed before trial, that at trial CSX will not rest its case-in-chief until NS witnesses Jeffrey Heller and Michael McClellan have testified. The parties stipulate and agree that NS intends to call Mr. Heller and Mr. McClellan during NS’s case-in-chief, and that the testimony and other evidence elicited through CSX’s cross examination of these witnesses will be considered part of CSX’s case-in-chief.

In the event that Mr. Heller and/or Mr. McClellan do not testify during NS’s case-in-chief – due to either witness’s unavailability or for any other reason – the parties stipulate and agree that CSX may call these witnesses out of turn, or may enter their deposition testimony, and the exhibits referenced within designated deposition testimony, into evidence, subject to Defendants’ objections. To this end, the parties stipulate and agree that Court need not rule

on outstanding objections to Mr. Heller's or Mr. McClellan's deposition testimony designated by either party, at the continuation of the Final Pretrial Conference on January 11, 2023.

In addition, in the unlikely event that a witness who has been disclosed by any party as appearing live at trial, and who is also identified as a party witness, the parties stipulate and agree that the opposing party may enter their deposition testimony, and the exhibits referenced within that designated deposition testimony, into evidence. Defendants specifically preserve their objections to this deposition testimony and any related exhibits.

Entered this _____ day of January, 2023.

WE ASK FOR THIS:

CSX TRANSPORTATION, INC.

By Counsel

/s/ Robert W. McFarland

Robert W. McFarland (VSB No. 24021)
Benjamin L. Hatch (VSB No. 70116)
V. Kathleen Dougherty (VSB No. 77294)
Jeanne E. Noonan (VSB No. 87863)
MCGUIREWOODS LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
E-mail: rmcfarland@mcguirewoods.com
E-mail: bhatch@mcguirewoods.com
E-mail: vkdougherty@mcguirewoods.com
E-mail: jnoonan@mcguirewoods.com

J. Brent Justus (VSB No. 45525)
Ashley P. Peterson (VSB No. 87904)
W. Cole Geddy (VSB No. 93511)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
Telephone: (804) 775-1000
Facsimile: (804) 698-2026
E-mail: bjustus@mcguirewoods.com
E-mail: apeterson@mcguirewoods.com
E-mail: cgeddy@mcguirewoods.com

NORFOLK SOUTHERN RAILWAY COMPANY

By Counsel

/s/

Alan D. Wingfield (VSB No. 27489)
Michael E. Lacy (VSB No. 48477)
Massie P. Cooper (VSB No. 82510)
TROUTMAN PEPPER HAMILTON SANDERS
LLP
1001 Haxall Point
Richmond, Virginia 23219
Tel. (804) 697-1200

Tara L. Reinhart (*admitted pro hac vice*)
Thomas R. Gentry (*admitted pro hac vice*)
Julia K. York (*admitted pro hac vice*)

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
LLP
1440 New York Ave, N.W.
Washington, D.C. 20005

Fax (804) 698-6061
alan.wingfield@troutman.com
michael.lacy@troutman.com
massie.cooper@troutman.com

Tel (202) 371-7000
tara.reinhart@skadden.com
thomas.gentry@skadden.com
julia.york@skadden.com

John C. Lynch (VSB No. 39267)
Kathleen M. Knudsen (VSB No. 90845)
TROUTMAN PEPPER HAMILTON SANDERS
LLP
222 Central Park Avenue, Suite 2000
Virginia Beach, Virginia 23462
Tel. (757) 687-7537
Fax (757) 687-1546
john.lynch@troutman.com
kathleen.knudsen@troutman.com

Monica McCarroll (VSB No. 45622)
REDGRAVE LLP
14555 Avion Parkway, Suite 275
Chantilly, VA 20151
Tel. (703) 592-1155
Fax (703) 230-9859
mmccarroll@redgravellp.com

*Counsel for Defendant
Norfolk Southern Railway Company*

NORFOLK AND PORTSMOUTH BELTLINE RAILWAY COMPANY
By Counsel

/s/
James L. Chapman IV (VSB No. 21983)
W. Ryan Snow (VSB No. 47423)
Alexander R. McDaniel (VSB No. 92398)
CRENSHAW, WARE & MARTIN, P.L.C.
150 West Main Street, Suite 1923
Norfolk, Virginia 23510
Tel. (757) 623-3000
Fax (757) 623-5735
jchapman@cwm-law.com
wrsnow@cwm-law.com
amcdaniel@cwm-law.com

Counsel for Defendant Norfolk & Portsmouth Beltline Railroad Company